

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF CALIFORNIA;
COMMONWEALTH OF
MASSACHUSETTS; STATE OF NEW
JERSEY; STATE OF COLORADO; STATE
OF ILLINOIS; STATE OF MARYLAND;
STATE OF NEW YORK; and STATE OF
WISCONSIN,

Plaintiffs,

v.

U.S. DEPARTMENT OF EDUCATION;
DENISE CARTER, in her official capacity as
former Acting Secretary of Education and
current acting Chief Operating Officer, Federal
Student Aid; LINDA MCMAHON, in her
official capacity as Secretary of Education,

Defendants.

Case No. 1:25-cv-10548

**PLAINTIFFS' REQUEST TO VACATE THE BRIEFING SCHEDULE ON
DEFENDANTS' MOTION TO DISMISS IN LIGHT OF THE FILING OF
PLAINTIFFS' FIRST AMENDED COMPLAINT**

Plaintiffs respectfully submit this request to vacate the briefing schedule on Defendants' previously filed motion to dismiss in light of Plaintiffs' filing of their amended complaint as a matter of course. Plaintiffs received Defendants' motion on May 12, 2025, (Doc. No. 101) and received Defendants' production of the administrative record on May 23, 2025, (Doc. No. 109). Plaintiffs have since amended their complaint with additional allegations and causes of action. Pursuant to Fed. R. Civ. P. 15(a)(1)(B), Plaintiffs may amend the complaint "as a matter of course . . . 21 days after service of a motion under Rule 12(b), (e), or (f)." *Lu v. Davis*, 2020 WL 7408278, at *7 (D. Mass. Nov. 2, 2020) (cleaned up). Here, Defendants served their Rule 12(b) motion to

dismiss on May 12, 2025 and, pursuant to Rule 15(a)(1)(B), Plaintiffs have timely filed this amended complaint 21 days after service of the motion and after reviewing Defendants' production of the administrative record.¹ (Doc. No. 101).

Plaintiffs' amended complaint moots Defendants' motion to dismiss. *See, e.g., Connecticut LLC v. Zuckerberg*, 522 F.3d 82, 91 (1st Cir. 2008) ("An amended complaint, once filed, normally supersedes the antecedent complaint. Thereafter, the earlier complaint is a dead letter and no longer performs any function in the case." (cleaned up)); *Scott v. Oklahoma Student Loan Auth.*, 2024 WL 4765692, at *2 (D. Mass. Feb. 7, 2024) ("[B]ecause an amended complaint supersedes an original complaint and renders it null and void, it renders moot any pending motions to dismiss the original complaint."); *Collymore v. Tannery*, 2019 WL 134615, at *1 (D. Mass. Jan. 8, 2019) ("Tannery's motion to dismiss the original complaint (ECF No. 14) was no longer operative upon Collymore's filing of the amended complaint, as ordered by the Court. Accordingly, Tannery's motion to dismiss the original complaint (ECF No. 14) is DENIED as MOOT.").

Under the briefing schedule set by the Court on Defendants' motion to dismiss, as modified by the Court's order (Doc. No. 111), Plaintiffs' response to Defendants' motion is due on June 6, 2025, and Defendants' reply is due on June 20, 2025. Accordingly, in light of Plaintiffs' filing of their amended complaint and the resultant mooted of Defendants' motion to dismiss, Plaintiffs request that the Court vacate the current briefing schedule. Plaintiffs will reach out to counsel for the Defendants and hope to confer and provide a joint status update to the Court in short order.

Dated: June 2, 2025

Respectfully submitted,

¹ Plaintiff States' review is not complete with respect to ensuring the whole record has been produced, and Plaintiff States reserve all rights in this regard.

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

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Dated: June 2, 2025